

From: Nick Bogan
To: Microsoft ATR
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Subject: Comments on the Proposed Settlement

Since before the original trial and consent decree, continuing through the U.S. vs Microsoft trial preceded over by Judge Jackson, to the present, Microsoft has had as its sole goal the elimination of consumer choice in the computing environment. Time and again, they have used all means both legal and illegal, indifferent to either the interest of consumers and the public at large or the law, to ensure that no other company or influence could tamper with their total control of the PC market. Whether it was crushing Netscape by means of illegal deals with OEMs, or in more recent times working to ensure that only Microsoft browsers on Microsoft OSes can use the Internet (witness their recent trial closure of msn.com to all browsers but IE and old, non-Web-standards-compliant versions of Netscape, shutting out newer, more-compliant-than-IE third-party browsers allegedly in the interest of Web standards compliance; I won't even speak of what Microsoft would like to do to the Internet with .NET), the company has made it clear that it will never change its ways unless the law is enforced.

If Microsoft is not stopped, computer users will continue to be forced to either use their products (Office and IE, and hence Windows) to permit compatibility with other computer users, or use third-party solutions that attempt to provide compatibility with undocumented Microsoft APIs and file formats (for example, the Office file formats) but are burdened with needing to reverse-engineer them. With the planned changes to Microsoft's software licensing, future purchasers of their software may simply be required to upgrade when Microsoft sees fit. As it is, installing Windows XP requires contacting Microsoft (this must be repeated if the computer's hardware is changed at any time) and is accompanied by several requests for the installer to sign up for Microsoft's Passport service.

The evidence that Microsoft has used its monopoly power illegally to protect and even to further its monopolies is indisputable; it is simply a given that the company is a monopolist and has been for years. What is not given is the response of the DOJ to this preponderance of evidence. As a computer user who

currently enjoys the opportunity to choose third-party software such as Linux and Mozilla, I hope that a forceful settlement is enacted that prevents Microsoft from continuing to try to force such products out of the computing world. Such a settlement should, at least, include a provision requiring Microsoft to provide accurate and freely available documentation of its APIs and file formats at the time of launch of any new product, whether it is free or charged for, that modifies these formats. If they do not do so, or release inaccurate or restricted documentation, they would not be allowed to ship (or continue to ship) the product.

I do not support any proposal that mandates Microsoft to produce versions of its software for other computing platforms. By providing free and accurate information about its currently proprietary APIs and file formats, it would be possible, albeit with much work, for Microsoft's competitors and other agents such as writers of Free Software to produce genuine alternatives to Microsoft software. The notion that the only hope for alternative computing platforms is for Microsoft Office or IE to be ported to them speaks volumes about the unhealthy and damaging control that Microsoft has obtained and retains, in large part through illegal actions.

In addition, while the option for OEMs to bundle third-party software and operating systems under the currently proposed settlement is a good start, it should be extended to prohibit the imposition of any future "Windows taxes" that use Microsoft's monopoly position to effectively force OEMs to preload Windows.

If I don't want to buy Windows when buying a computer, I shouldn't have to, and I should save at least as much as the per-unit license cost to the OEM by excluding it.

I appreciate the efforts of those who are reviewing these comments. I hope that my voice, along with those of many others, will help strengthen the settlement, making it into an effective tool that will restrain Microsoft from illegal actions and help bring an end to its hurtfully excessive domination of the computing industry.

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